

April 20, 2015

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Mr. Frank Trimboli, Administrator  
Providence Living Center  
1112 SE Republican  
Topeka, KS 66607-1614

### **LICENSURE AND CERTIFICATION LIFE SAFETY CODE RESULTS OF REVISIT**

A Life Safety Code first revisit was completed as a result of your February 12, 2015 Life Safety Code Survey at your facility by the State Fire Marshal's Office (SFMO) to determine if your facility was in compliance with Federal requirements for nursing homes participating in the Medicare and/or Medicaid programs. This revisit found the most serious deficiency in your facility to be an "F" level deficiency, widespread, with not actual harm with potential for more than minimal harm that is not immediate jeopardy.

**A KSFMO revisit has not verified that your LSC deficiencies are in compliance.**

All references to regulatory requirements contained in this letter are found in Title 42, Code of Federal Regulations.

#### **Plan of Correction (POC)**

An acceptable plan of correction for the deficiencies was required to have been submitted to the State Fire Marshal's Office within ten calendar days. You were previously provided the Form CMS-2567. Your plan of correction must contain the following:

- Address how corrective action will be accomplished for those residents found to have been affected by the deficient practice;
- Address how the facility will identify other residents having the potential to be affected by the same deficient practice;
- Address what measures will be put in place or systemic changes made to ensure that the deficient practice will not recur;
- Indicate how the facility plans to monitor its performance to make sure that solutions are sustained: (the facility must develop a plan for ensuring that correction is achieved and sustained); and,
- Include the dates corrective action was completed.

Required remedies will be recommended for imposition by the Center for Medicare and Medicaid Services (CMS) if your facility has failed to achieve substantial compliance. Informal conflict prevention for the cited deficiencies will not delay the imposition of the enforcement actions

recommended. The outcome of a revisit may result in a change in the remedy selected.

### **Recommended Remedies**

Based on the deficiencies cited during your Life Safety Code survey, and as authorized by CMS, we are recommending the following remedies:

Denial of payments for Medicare/Medicaid admissions effective **May 12, 2015**, if substantial compliance is not achieved by that time as authorized by the Center for Medicare and Medicaid Services.

We are also recommending to CMS that your provider agreement be terminated on August 12, 2015 if substantial compliance is not achieved by that time.

**NOTE: The above remedies are subject to change if substantial compliance is not achieved following subsequent visits per CMS Revisit Policy dated May 3, 2001.**

### **Allegation of Compliance**

Failure to achieve substantial compliance in accordance with your allegation of compliance may result in the imposition of a civil money penalty, retroactive to the survey exit date. These remedies may continue until substantial compliance is achieved or your provider agreement is terminated. If your facility has not achieved substantial compliance, we will recommend that the remedies previously mentioned in this letter be imposed by KDADS. Please note that Federal law, as specified in the Social Security Act 1819(f)(2)(B) and 1919(f)(2)(B), prohibits approval of nurse aide training and competency evaluation programs (NATCEP) and nurse aide competency evaluation programs (CEP) offered by or in a facility which, within the previous two years has operated under an 1819(B)(4)(C)(ii)(II) or 1919(b)(4)(C)(ii) waiver, has been subject to the following: an extended or partial extended survey; assessment of a Civil Money Penalty of not less than \$5,000; or, a denial of payment, or termination. If any of these situations occur, NATCEP is to be denied, and you will be so advised in a separate notification.

If you disagree with this determination, you or your legal representative may request a hearing before an Administrative Law Judge of the Department of Health and Human Services, Departmental Appeals Board. Procedures governing this process are set out in 42 CFR 498.40 et seq. A written request for a hearing must be filed no later than 60 days from the date of receipt of this letter. Such a request may be made to:

Departmental of Health & Human Services  
Department Appeals Board  
Civil Remedies Division  
330 Independence Avenue, S.W.  
Cohen Building, Room G-644  
Washington D.C. 20201

A copy of your request for a hearing must be sent to your State Agency and the following offices:

Branch Manager, Long Term Care  
Division of Survey and Certification  
Centers for Medicare & Medicaid Services  
601 E 12<sup>th</sup> Street, Room 355  
Kansas City, MO 64106

Chief Counsel  
Office of the General Counsel  
601 E. 12<sup>th</sup> Street. Room N1800  
Kansas City, MO 64106

A request for a hearing should identify the specific issues and the findings of fact and conclusions of law with which you disagree. It should also specify the basis for contending that the findings and conclusion are incorrect. You may be represented by counsel at a hearing at your own expense

**Informal Dispute Resolution (IDR)**

In accordance with CFR 488.331, you have one opportunity to question cited deficiencies through an IDR process. You may also contest scope and severity assessments for deficiencies which resulted in a finding of immediate jeopardy. To be given such an opportunity, you are required to send your written request, along with the specific deficiencies being disputed, and an explanation of why you are disputing those deficiencies (or why you are disputing the scope and severity assessments of deficiencies which have been found to constitute immediate jeopardy) to:

Brenda McNorton, Director of Fire Prevention Division  
Office of State Fire Marshal  
800 SW Jackson, Suite 104  
Topeka, KS 66612-1216  
Phone: (785) 296-3401  
Fax: (785) 296-0151

This request must be made within 10 calendar days of your receipt of the statement of deficiencies. An incomplete IDR process will not delay the effective date of any enforcement action. If you have any questions concerning the instructions contained in this letter, **please contact Brenda McNorton** at the address and/or phone number shown above.

Irina Strakhova  
Enforcement Coordinator  
Licensure, Certification, and Evaluation Commission  
Kansas Department for Aging & Disabilities Services

c: Brenda McNorton, Director of Fire Prevention Division, SFMO  
Joe Ewert, Commissioner, KDADS  
Audrey Sunderraj, Director, KDADS  
Jane Weiler, Survey & Certification Branch, CMS  
LaNae Workman, KDADS  
Fiscal Intermediary